



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision - DENIAL**

#### **Request for Variance**

#### **Zaremba Program Development, LLC**

#### **Tax Map 52, Lot 18**

**July 16, 2014**

**Applicant:** Zaremba Program Development, LLC  
14600 Detroit Avenue, Suite 1500  
Lakewood, Ohio 44107

**Location:** 929 Whittier Highway, Moultonborough, NH (Tax Map 52, Lot 18)

On July 16, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public rehearing on the application of Zaremba Program Development, LLC (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article XII.V (B) of the Zoning Ordinance to permit a post development storm water volume that exceeds the predevelopment level for a 50 year storm event on the parcel located in the Commercial Zone A, C and RA zoning districts.

Based on the application, testimony given at the rehearing, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 929 Whittier Highway (Tax Map 52, Lot 18).
- 2) The owner of the record of lot is Tevis Kraft.
- 3) Zaremba Program Development, LLC were the applicants, submitting on behalf of Dollar General.
- 4) The proposed development lot had not yet been subdivided out of the lot of record as of the date of the Public Hearing.
- 5) The lot is located in the Commercial A and C Zoning Districts which allow retail establishments by right.

- 6) The applicants are requesting relief from the Stormwater Management Article XII.V.B of the Zoning Ordinance to permit a post development storm water volume that exceeds the predevelopment volume leaving a site for a 50 year storm event, while meeting the requirement for the rate for pre and post development to remain the same.
- 7) Attorney John Sokul from Hinckley Allen presented the application for variance. Present for the rehearing was Tom Sokoloski from Schauer Environmental Consultants, Bill McLean, Erin Lambert from Nobis Engineering and Scott Holman from Zaremba Group. The representatives presented their research, drainage analyses, stormwater management plan and engineering design, meeting state standards, intended to mitigate their develop-related runoff through controlling the rate and providing for filtration.
- 8) Ray Korber, P.E. of KV Partners presented his written peer review memo to the Board and explained his methodology and conclusions regarding the drainage analysis and storm water management approach; namely that generally accepted engineering standards and state guidance on best management practices were followed.
- 9) Granting the Variance would be contrary to the public interest as the Board felt that it would threaten the health and welfare of the down-gradient properties because of the threat of flooding, adverse impact to wetlands and of degradation to water quality.
- 10) Granting the Variance would not be consistent with the spirit of the Ordinance as the Board felt the purpose of the stormwater management ordinance was not being met because of the reasons in number 8, above.
- 11) By granting the Variance, substantial justice would not be done because there is the potential for a smaller commercial use disturbing less than 20,000 sq. ft. (such as a 2500 sq. ft. building with a ten space parking lot) or a residential dwelling that would not need to ask for the variance from the volume standard.
- 12) Granting the Variance would diminish the value of surrounding properties because the increased volume of stormwater runoff onto the down-gradient properties would be detrimental and reduce property values.
- 13) No Special conditions exist such that a literal enforcement of the provision of the Ordinance will result in unnecessary hardship because the Board felt that a reduced size commercial development (disturbing less than 20,000 sq. ft.) or a residential dwelling could be accomplished without requiring any variance for this application in the commercial zone.
- 14) On July 16, 2014, the Zoning Board of Adjustment voted by a vote of three (3) in favor (Nolin, Crowe, Hopkins), two (2) opposed (Stephens, Zewski) and no (0) abstentions to deny the request for a variance,

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on August 6, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Crowe, Jenny, Hopkins), none (0) opposed.

The decision made to deny the rehearing heard on July 16, 2014 begins a thirty (30) day appeal period starting on July 17, 2014 to the Superior Court in accordance with RSA 677:4.



Robert H. Stephens  
Chairman, Zoning Board of Adjustment

Date 8/7/2014